ELECTRONICALLY SERVED
4/19/2022 12:08 PM

Electronically Filed
04/19/2022 12:07 PM
CLERK OF THE COURT

FFCO

DISTRICT COURT
CLARK COUNTY, NEVADA

LAS VEGAS VALLEY WATER DISTRICT, and SOUTHERN NEVADA WATER AUTHORITY, Petitioners, vs. TIM WILSON, P.E., Nevada State Engineer, DIVISION OF WATER RESOURCES, DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES, Respondent. And All Consolidated Cases.	Case No. A-20-816761-C Dept. No. I Consolidated with Cases: A-20-817765-P A-20-818015-P A-20-817977-P A-20-818069-P A-20-817840-P A-20-817876-P A-21-833572-J

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING PETITIONS FOR JUDICIAL REVIEW

This matter comes before this Court on consolidated petitions for judicial review of State Engineer's Order 1309 filed by Petitioners:

- Southern Nevada Water Authority and Las Vegas Valley Water District
- Coyote Spring Investment, LLC
- Apex Holding Co. and Dry Lake Water, LLC
- The Center for Biological Diversity
- Muddy Valley Irrigation Company
- Nevada Cogeneration Associates Nos. 1 and 2
- Georgia-Pacific Gypsum LLC and Republic Environmental Technologies, Inc.
- Lincoln County Water District and Vidler Water Company.

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

Case Number: A-20-816761-C

The parties stipulated to permit the following Intervenors into this matter:

- Sierra Pacific Power Company d/b/a NV Energy and Nevada Power Company d/b/a NV Energy
- Moapa Valley Water District
- The Church of Jesus Christ of Latter-Day Saints
- City of North Las Vegas
- Western Elite Environmental, Inc. and Bedroc Limited, LLC.

In addition, some Petitioners intervened to respond to other petitions for judicial review. The Parties appeared by and through their respective counsels of record. The Court held oral argument from February 14, 2022 to February 17, 2022.

The Court having considered the evidence, the pleadings, together with opening and closing arguments presented at the hearing for these matters, and good cause appearing therefor, makes the following Findings of Fact, Conclusions of Law, and Order:

I.

PROCEDURAL HISTORY

On June 15, 2020, the Nevada State Engineer issued Order No. 1309 as his latest administrative action regarding the Lower White River Flow System ("LWRFS")[1].

On June 17, 2020, the Las Vegas Valley Water District and the Southern Nevada Water Authority (collectively, "SNWA") filed a petition for judicial review of Order 1309 in the Eighth Judicial District Court in Clark County, Nevada.[2] Subsequently, the following petitioners filed petitions for judicial review in the Eighth Judicial District Court: Coyote Spring Investments, LLC ("CSI"); Apex Holding Company, LLC and Dry Lake Water LLC (collectively, "Apex"); the Center Biological Diversity ("CBD"); Muddy Valley Irrigation Company ("MVIC"); Nevada

[1] SE ROA 2 – 69. The LWRFS refers to an area in southern Nevada made up of several hydrological basins that share the same aquifer as their source of groundwater. The Nevada State Engineer determined that this encompasses the area that includes Coyote Spring Valley, Muddy River Springs Area, California Wash, Hidden Valley, Garnet Valley, Kane Springs Valley and the northwest portion of the Black Mountains Area.

[2] LVVWD and SNWA Petition for Judicial Review, filed June 17, 2020.

Cogeneration Associates Numbers 1 and 2 ("Nevada Cogen"); and Georgia-Pacific Gypsum LLC, and Republic Technologies, Inc. (collectively, "Georgia-Pacific"). All petitions were consolidated with SNWA's petition.[3]

Later, Sierra Pacific Power Company d/b/a NV Energy ("Sierra Pacific") and Nevada Power Company d/b/a NV Energy ("Nevada Power" and, together with Sierra Pacific, "NV Energy"), Moapa Valley Water District ("MVWD"), the Church of Jesus Christ and of Latter-Day Saints (the "Church"), the City of North Las Vegas ("CNLV"), and Western Elite Environmental, Inc. and Bedroc Limited (collectively, "Bedroc") [4] were granted intervention status in the consolidated petitions for judicial review of Order 1309.

On July 13, 2020, Lincoln County Water District and Vidler Water Co. (collectively, "Vidler") timely filed their Petition for Judicial Review of State Engineer Order 1309 in the Seventh Judicial District Court in Lincoln County, Nevada, identified as Case No. CV-0702520. On August 26, 2020, the Seventh Judicial District Court issued an Order Granting Motion to Change Venue, transferring this matter to the Eighth Judicial District Court in Clark County, Nevada. Vidler appealed the Order Granting Motion to Change Venue to the Nevada Supreme Court, and on April 15, 2021, the Nevada Supreme Court entered its Order of Affirmation. On May 27, 2021, per verbal stipulation by the parties, the Court ordered this matter consolidated into Case No. A-20-816761-C. When transferred to the Eighth Judicial District Court, Vidler's action was assigned Case No. A-21-833572-J. Notwithstanding the consolidation of all of the cases, each case retained its individual and distinct factual and legal issues.

Petitioners in all the consolidated actions filed their Opening Briefs on or about August 27, 2021. Respondents State Engineer, Intervenors, and Petitioners who were Respondent-Intervenors filed their Answering Briefs on or about November 24, 2021. Petitioners filed their Reply Briefs on or about January 11, 2022.

[3] Stipulation for Consolidation, A-20-816761-C, May 26, 2021.

[4] Bedroc and CNLV did not file briefs and did not participate in oral argument.

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

II.

FACTUAL HISTORY

A. The Carbonate Groundwater Aquifer and the Basins

Much of the bedrock and mountain ranges of Eastern Nevada are formed from a sequence of sedimentary rocks lain down during the Paleozoic Era. These formations are limestones or dolomites, commonly referred to as "carbonates," due to the chemical composition of the minerals composing the rocks. These formations have been extensively deformed through folding and faulting caused by geologic forces. This deformation has caused extensive fracture and fault systems to form in these carbonate rocks, with permeability enhanced by the gradual solution of minerals. The result is an aquifer system that over time has accumulated large volumes of water with some apparent degree of connection throughout the much of area.[5] The valley floors in the basins of Eastern Nevada are generally composed of alluvium comprised largely of relatively young (<5 million years) unconsolidated sands, gravels, and clays. This sequence is loosely referred to as the "Alluvial Aquifer," the aquifer for most shallow wells in the area. Most of the water in the Carbonate Aquifer is present due to infiltration of water thousands of years ago; recent recharge from present day precipitation may represent only a fraction of the water stored.

Approximately 50,000 square miles of Nevada sits atop of this geologic layer of carbonate rock, which contains significant quantities of groundwater.[6] This carbonate-rock aquifer system contains at least two major "regional flow systems" - continuous, interconnected, and transmissive geologic features through which water flows underground roughly from north to south: the Ash Meadows-Death Valley regional flow system; and the White River-Muddy River Springs system.[7] These flow systems connect the groundwater beneath dozens of topographic valleys across distances exceeding 200 miles.[8] The White River-Muddy River Springs flow system, stretching approximately

[5] State Engineer Record on Appeal ("SE ROA") 36062-67, Ex. 14; SE ROA 661, Ex. 8.

[6] SE ROA 659.

[7] SE ROA 661.

[8] SE ROA 661.

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

240 miles from southern Elko County in the north to the Muddy River Springs Area in the south, was identified as early as 1966.[9] The area designated by Order 1309 as the LWRFS consists generally of the southern portion of the White River-Muddy River Springs flow system.[10].

The Muddy River runs through a portion of the LWRFS before cutting southeast and discharging into Lake Mead.[11] Many warm-water springs, including the Muddy River Springs at issue in this litigation, discharge from the regional carbonate groundwater aquifer.[12] The series of springs, collectively referred to as the "Muddy River Springs" in the Muddy River Springs Area hydrographic basin form the headwaters of the Muddy River and provide the only known habitat for the endangered Moapa dace.[13]

The Muddy River Springs are directly connected to, and discharge from, the regional carbonate aquifer.[14] Because of this connection, flows from the springs are dependent on the elevation of groundwater within the carbonate aquifer, and can change rapidly in direct response to changes in carbonate groundwater levels.[15] As carbonate groundwater levels decline, spring flows decrease, beginning with the highest-elevation springs.[16]

As early as 1989, there were concerns that sustained groundwater pumping from the carbonate-rock aquifer would result in water table declines, substantially deplete the water stored in the aquifer, and ultimately reduce or eliminate flow from the warm-water springs that discharge from the aquifer.[17]

---

[9] SE ROA 11349-59.

[10] *See* SE ROA 11350.

[11] SE ROA 41943.

[12] SE ROA 660-61, 53056, 53062.

[13] SE ROA 663-664, 41959, 48680.

[14] SE ROA 73-75, 34545, 53062.

[15] SE ROA 60-61, 34545.

[16] SE ROA 46, 34545.

[17] *See* SE ROA 661.

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

The general rule in Nevada is that one acquires a water right by filing an application to appropriate water with the Nevada Division of Water Resources ("DWR"). If the DWR approves the application, a "Permit to Appropriate" issues. Nevada has adopted the principle of "first in time, first in right," also known as "priority." The priority of a water right is determined by the date a permit is applied for. Nevada's water resources are managed through administrative units called "hydrographic basins," which are generally defined by topography, more or less reflecting boundaries between watersheds. Nevada is divided into 232 hydrographic basins (256 hydrographic basins and sub-basins, combined) based upon the surface geography and subsurface flow.

The priority of groundwater rights is determined relative to the water rights holder within the individual basins. If there is not enough water to serve all water right holders in a particular basin, "senior" appropriators are satisfied first in order of priority: the rights of "junior" appropriators may be curtailed. Historically, The Nevada State Engineer has managed hydrographic basins in a basin-by-basin manner for decades,[18] and administers and manages each basin as a discrete hydrologic unit.[19] The State Engineer keeps and maintains annual pumping inventories and records on a basin-by-basin basis.[20]

This administrative structure has worked reasonably well for basins where groundwater is pumped from "basin fill" aquifers or alluvium, where the annual recharge of the groundwater historically has been estimated based upon known or estimated precipitation data - establishing the amount of groundwater that is recharged annually and can be extracted sustainably from a basin, known as the "perennial yield." In reality, many hydrographic basins are severely over-appropriated, due to inaccurate estimates, over pumping, domestic wells, changing climate conditions, etc.

Administration of groundwater rights is made particularly complex when the main source of

---

[18]SE ROA 654, 659, 699, 726, 755.

[19] SE ROA 949-1069.

[20] SE ROA 1070-1499.

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

groundwater is not "basin fill" or alluvium, but aquifers found in permeable geologic formations lying beneath the younger basin fill, and which may underlie large regions that are not well defined by the present-day hydrographic basins. This is the case with Nevada's "Carbonate Aquifer."

When necessary, the State Engineer may manage a basin that has been designated for administration. NRS 534.030 outlines the process by which a particular basin can be designated for administration by the State Engineer. In the instant case, six of the seven basins affected by Order No. 1309 had already been designated for management under NRS 534.030, including:

a. Coyote Spring Valley Hydrographic Basin ("Coyote Spring Valley"), Basin No. 210, since 1985;

b. Black Mountains Area Hydrographic Basin ("Black Mountains Area"), Basin No. 215, since November 22, 1989;

c. Garnet Valley Hydrographic Basin ("Garnet Valley"), Basin No. 216, since April 24, 1990;

d. Hidden Valley Hydrographic Basin ("Hidden Valley"), Basin No. 217, since October 24, 1990;

e. California Wash Hydrographic Basin ("California Wash"), Basin No. 218, since August 24, 1990; and

f. Muddy River Springs Area Hydrographic Basin ("Muddy River Springs Area"), Basin No. 219, since July 14, 1971.[21]

Kane Springs Valley ("Kane Springs Valley"), Basin 206, which was also affected by Order No. 1309, had not been designated previously for administration.[22]

[21] *See* SE ROA 2-3, 71-72.

[22] The Court takes judicial notice of Kane Springs Valley Basin's status of not being designated for administration per NRS 534.030. http://water.nv.gov/StateEnginersOrdersList.aspx (available online at the Division of Water Resources. "Mapping& Data" tab, under "Water Rights" tab, "State Engineer's Orders List and Search"). Facts that are subject to judicial notice "are facts in issue or facts from which they may be inferred." NRS 47.130(1). To be judicially noticed, a fact must be "[g]enerally known" or "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." NRS 47.130(2); *Andolino v. State*, 99 Nev. 346, 351, 662 P.2d 631, 633-34 (1983) (courts may take judicial notice of official government publications); *Barron v. Reich*, 13 F.3d 1370, 1377 (9th Cir. 1994) (courts may take judicial notice of documents obtained from administrative agencies); *Greeson v. Imperial Irr. Dist.*, 59 F.2d 529, 531 (9th Cir.1932) (courts may take judicial notice of "public documents").

B. The Muddy River Decree

Over one hundred years ago, this Court issued the Muddy River Decree of 1920 (sometimes referred to herein as the "Decree" or "Muddy River Decree"), which established water rights on the Muddy River.[23] The Muddy River Decree recognized specific water rights,[24] identified each water right holder on the Muddy River, and quantified each water right.[25] MVIC specifically owns certain rights ". . . to divert, convey, and use all of said waters of said River, its head waters, sources of supply and tributaries, save and except the several amounts and rights hereinbefore specified and described . . . and to divert said waters, convey and distribute the same to its present stockholders, and future stockholders, and other persons who may have acquired or who may acquire temporary or permanent rights through said Company. . ."[26]. The Decree appropriates all water of the Muddy River at the time the Decree was entered, which was prior to any other significant development in the area. The predevelopment flow averaged approximately 33,900 acre feet per annum ("afa").[27] The rights delineated through The Muddy River Decree are the oldest and most senior rights in the LWRFS.

C. The Moapa Dace

The Moapa dace (*Moapa coriacea*) is a thermophilic minnow endemic to the upper spring-fed reaches Muddy River, and has been federally listed as endangered since 1967.[28] Between 1933

---

[23] *See* Judgment and Decree, *Muddy Valley Irrigation Co. v. Moapa and Salt Lake Produce Co.* (the "Muddy River Decree" or "Decree") (March 11, 1920) (SE ROA 33770-33816).

[24] SE ROA 33770-816. Specifically, the Muddy River Decree finds "[t]hat the aggregate volume of the several amounts and quantities of water awarded and allotted to the parties . . . is the total available flow of the said Muddy River and consumes and exhausts all of the available flow of the said Muddy River, its headwaters, sources of supply and tributaries." SE ROA 33792-33793.

[25] SE ROA 33798-806.

[26] SE ROA 33775.

[27] *See* SNWA Report (June 2019) (SE ROA 41930 – 42072) at § 3.4.1 (SE ROA 41962) describing the predevelopment flows as measured in 1946 as 33,900 afa and the average flow measured from July 1, 1913 to June 30, 1915 and October 1, 1916 to September 30, 1917 as 34,000 afa. The NSE further recognizes 33,900 afa as the predevelopment flow. *See* Order 1309 (SE ROA 2-69) at p. 61 (SE ROA 62).

[28] SE ROA 5.

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

and 1950, the Moapa dace was abundant in the Muddy River and was estimated to inhabit as many as 25 individual springs and up to 10 miles of stream habitat. However, by 1983, the species only occurred in springs and two miles of spring outflows. Currently, approximately 95 percent of the total Moapa dace population occurs within 1.78 miles of one major tributary system that flows from three high-elevation spring complexes within the Muddy River Springs Area.[29]

Threats to the Moapa Dace include non-native predatory fishes, habitat loss from water diversions and impoundments, wildfire risk from non-native vegetation, and reductions to surface spring-flows resulting from groundwater development.[30] Because the Moapa dace is entirely dependent on spring flow, protecting the dace necessarily involves protecting the warm spring sources of the Muddy River.[31]

D. Order 1169

Significant pumping of the Carbonate Aquifer in the LWRFS began in the 1980s and 1990s. Initial assessments of the water available in the Aquifer suggested it would provide a new abundant source of water for Southern Nevada. Because the prospective water resources of the LWRFS carbonate appeared to be substantial, nearly 100 water right applications for over 300,000 acre feet were filed in State Engineer's office.[32]

By 2001, the State Engineer had granted more than 40,000 acre feet of applications in the LWRFS. The State Engineer considered additional applications for groundwater in Coyote Spring Valley and adjacent hydrographic basins. However, concerned over the lack of information regarding the sustainability of water resources from the Carbonate Aquifer, the State Engineer began hearings in July and August 2001 on water right applications.[33]

[29] SE ROA 47169.

[30] SE ROA 47160.

[31] SE ROA 42087.

[32] SE ROA 4, Ex. 1.

[33] *Id.*

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

On March 8, 2002, the State Engineer issued Order 1169 to delay consideration of new water right applications and require the pumping of existing groundwater to determine what impact increased groundwater pumping would have on senior water rights and the environment at the Muddy River ("Aquifer Test").[34] Order 1169 held in abeyance all applications for the appropriation of groundwater from the carbonate-rock aquifer system located in the Coyote Spring Valley Basin (Basin 210), Black Mountains Area Basin (Basin 215), Garnet Valley Basin (Basin 216), Hidden Valley Basin (Basin 217), Muddy River Springs aka Upper Moapa Valley Basin (Basin 210), and Lower Moapa Valley Basin (Basin 220).[35] California Wash (Basin 218) was subsequently added to this Order.[36]

Notably, Kane Springs was not included in the Order 1169 study area. In Ruling 5712, the State Engineer specifically determined Kane Springs would not be included in the Order 1169 study area because there was no substantial evidence that the appropriation of a limited quantity of water in Kane Springs would have any measurable impact on the Muddy River Springs that warranted the inclusion of Kane Springs in Order 1169.[37] The State Engineer specifically rejected the argument that the Kane Springs rights could not be appropriated based upon senior appropriated rights in the down gradient basins.[38]

Order 1169A, issued December 21, 2012, set up a test to "stress" the Carbonate Aquifer through two years of aggressive pumping, combined with examination of water levels in monitoring wells located throughout the LWRFS.[39] Participants in the Aquifer test were Southern Nevada Water Authority ("SNWA"), Las Vegas Valley Water District ("LVVWD"), Moapa Valley Water District, Coyote Springs Investments, LLC ("Coyote Springs"), Moapa Band of Paiutes, and Nevada

[34] SE ROA 654-669.

[35] *See* SE ROA 659, 665.

[36] SE ROA 659-69, Ex. 8; *see also* SE ROA 654, Ex. 7.

[37] SE ROA 719.

[38] SE ROA 713.

[39] SE ROA 654-58, Ex. 7.

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

Power Company. Pumping included 5,300 afa in Coyote Spring Valley, 14,535 afa total carbonate pumping, and 3,840 afa alluvial pumping.[40] Pumping tests effects were examined at 79 monitoring wells and 11 springs and streamflow monitoring sites.[41] The Kane Springs basin was not included in the Order 1169 aquifer testing, and Kane Springs basin water right holders were not involved, not provided notice, and did not participate in the aquifer testing, monitoring or measurements, submission of reports, proceedings and actions taken by the State Engineer pursuant to Order 1169.[42]

The State Engineer's conclusions from the pump test found an "unprecedented decline" in high-altitude springs, an "unprecedented decline" in water levels, and that additional pumping in the central part of Coyote Spring Valley or the Muddy River Spring Area could not occur without conflict with existing senior rights, including decreed surface water rights on the Muddy River, or the habitat of the Moapa Dace. The State Engineer attributed observed decreases in water levels in other areas of the basins to the pumping during the Order 1169 test and concluded that the test demonstrated connectivity within the Carbonate Aquifer of the LWRFS. On this basis, the State Engineer determined that the five basin LWRFS should be jointly managed.

In 2014, and based on the results of the Aquifer Test, the State Engineer issued Rulings 6254–6261 on January 29, 2014 denying all the pending groundwater applications in Coyote Springs Valley, Muddy River Springs Area, California Wash, Hidden Valley, Garnet Valley, and certain portions of the Black Mountains Area.[43] His rationale in each ruling was the same: "because these basins share a unique and close hydrologic connection and share virtually all of the same source and supply of water, unlike other basins in Nevada, these five basins will be jointly managed."[44]

---

[40] The Order uses the term acre-foot per year (afy), but for consistency with common usage, this Court uses the equivalent term acre feet per annum.

[41] SE ROA 6, Ex. 1.

[42] SE ROA 36230 - 36231.

[43] SE ROA 726 – 948.

[44] *See e.g.*, SE ROA 479.

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

E. Interim Order 1303 and proceedings

On January 11, 2019 -- nearly 17 years after issuing Order 1169, then-State Engineer Jason King issued Interim Order 1303 to start a two-phased administrative process to resolve the competing interests for water resources in the LWRFS.[45] He created the LWRFS as a joint administrative unit and invited stakeholders to participate in an administrative hearing to address the factual questions of what the boundary of the LWRFS should be, and what amount of groundwater could be sustainably pumped in the LWRFS.[46] The LWRFS is the first multi-basin area that the Nevada State Engineer has designated in state history. The ordering provisions in Interim Order 1303 provide in pertinent part:

> 1. The Lower White River Flow System consisting of the Coyote Spring Valley, Muddy River Springs Area, California Wash, Hidden Valley, Garnet Valley, and the portion of the Black Mountains Area as described in this Order, is herewith designated as a joint administrative unit for purposes of administration of water rights. All water rights within the Lower White River Flow System will be administered based upon their respective date of priorities in relation to other rights within the regional groundwater unit.
>
> Any stakeholder with interests that may be affected by water right development within the Lower White River Flow System may file a report in the Office of the State Engineer in Carson City, Nevada, no later than the close of business on Monday, June 3, 2019.
>
> Reports filed with the Office of the State Engineer should address the following matters:
>
> a. The geographic boundary of the hydrologically connected groundwater and surface water systems comprising the Lower White River Flow System;
>
> b. The information obtained from the Order 1169 aquifer test and subsequent to the aquifer test and Muddy River headwater spring flow as it relates to aquifer recovery since the completion of the aquifer test;
>
> c. The long-term annual quantity of groundwater that may be pumped from the Lower White River Flow System, including the relationships between the location of pumping on discharge to the Muddy River Springs, and the capture of Muddy River flow;

[45] SE ROA 635-53, Ex. 6.

[46] SE ROA 82-83.

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

> d. The effects of movement of water rights between alluvial wells and carbonate wells on deliveries of senior decreed rights to the Muddy River; and,
>
> e. Any other matter believed to be relevant to the State Engineer's analysis.

SE ROA 647-48, Ex. 6.

The State Engineer identified the LWRFS as including the following hydrographic basins: Coyote Spring Valley, a portion of Black Mountains Area, Garnet Valley, Hidden Valley, California Wash, and the Muddy River Springs Area.[47] Kane Springs continued to be excluded as part of the LWRFS multi-basin area in Interim Order 1303.[48]

In July and August 2019, reports and rebuttal reports were submitted discussing the four matters set forth in Interim Order 1303. On July 25, 2019, the State Engineer issued a Notice of Pre-Hearing Conference, and on August 9, 2019, the State Engineer held a prehearing conference. On August 23, 2019, the State Engineer issued a Notice of Hearing (which it amended on August 26, 2019), noting that the hearing would be "the first step" in determining how to address future management decisions, including policy decisions, relating to the LWRFS.[49] He also indicated that the legal question of whether groundwater pumping in the LWRFS conflicts with senior water rights would be addressed in Phase 2 of the LWRFS administrative process.[50]

The Hearing Officer made it clear that "any other matter believed to be relevant" as specified in ordering paragraph 1(e) of Order 1303 would not include discussion of the administrative impacts of consolidating the basins or any policy matters affected by its decision. The State Engineer conducted a hearing on the reports submitted under Order 1303 between September 23, 2019, and October 4, 2019. At the start of the administrative hearing, the State Engineer reminded the parties the public administrative hearing was not a "trial-type" proceeding,

[47] SE ROA 70-88.

[48] *Id.*

[49] SE ROA 263, Ex. 2 (Notice); SE ROA 285, Ex. 3 (Amended Notice).

[50] SE ROA 522.

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

not a contested adversarial proceeding.[51] Cross-examination was limited to between 4-17 minutes per participant depending on the length of time given to a participant to present its reports.[52]

Following the submission by the participating stakeholders of closing statements at the beginning of December 2019, the State Engineer engaged in no additional public process and solicited no additional input regarding "future management decisions, including policy decisions, relating to the Lower White River Flow System basins."[53]

F. Order 1309

On June 15, 2020, the State Engineer issued Order 1309.[54] The first three ordering paragraphs state as follows:

> 1. The Lower White River Flow System consisting of the Kane Springs Valley, Coyote Spring Valley, Muddy River Springs Area, California Wash, Hidden Valley, Garnet Valley, and the northwest portion of the Black Mountains Area as described in this Order, is hereby delineated as a single hydrographic basin. The Kane Springs Valley, Coyote Spring Valley, Muddy River Springs Area, California Wash, Hidden Valley, Garnet Valley and the northwest portion of the Black Mountains Area are hereby established as sub-basins within the Lower White River Flow System Hydrographic Basin.
>
> 2. The maximum quantity of groundwater that may be pumped from the Lower White River Flow System Hydrographic Basin on an average annual basis without causing further declines in Warm Springs area spring flow and flow in the Muddy River cannot exceed 8,000 afa and may be less.
>
> 3. The maximum quantity of water that may be pumped from the Lower White River Flow System Hydrographic Basin may be reduced if it is determined that pumping will adversely impact the endangered Moapa dace.

SE ROA 66, Ex. 1.

The Order does not provide guidance about how the new "single hydrographic basin" will be administered and provided no clear analysis as to the basis for the 8000 afa number for the maximum sustainable yield.

---

[51] SE ROA 52962, Transcript 6:4-6, 24 to 7:1 (Sept. 23, 2019) (Hearing Officer Fairbank).

[52] SE ROA 52962, Transcript 7:5-7 (Sept. 23, 2019) (Hearing Officer Fairbank).

[53] *See* SE ROA 285, Ex. 3.

[54] SE ROA 2-69.

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

In its Order, the State Engineer indicated that it "considered this evidence and testimony [regarding basin inclusion and basin boundary] on the basis of a common set of criteria that are consistent with the original characteristics considered critical in demonstrating a close hydrologic connection requiring joint management in Rulings 6254-6261."[55] However, the State Engineer did not disclose these criteria to the stakeholders before or during the Order 1303 proceedings. Instead, he disclosed them for the first time in Order 1309, after the stakeholders had engaged in extensive investigations, expert reporting, and factual hearing requested by Order 1303. The criteria are:

> 1. Water level observations whose spatial distribution indicates a relatively uniform or flat potentiometric surface are consistent with a close hydrologic connection.
>
> 2. Water level hydrographs that, in well-to-well comparisons, demonstrate a similar temporal pattern, irrespective of whether the pattern is caused by climate, pumping, or other dynamic is consistent with a close hydrologic connection.
>
> 3. Water level hydrographs that demonstrate an observable increase in drawdown that corresponds to an increase in pumping and an observable decrease in drawdown, or a recovery, that corresponds to a decrease in pumping, are consistent with a direct hydraulic connection and close hydrologic connection to the pumping location(s).
>
> 4. Water level observations that demonstrate a relatively steep hydraulic gradient are consistent with a poor hydraulic connection and a potential boundary.
>
> 5. Geological structures that have caused a juxtaposition of the carbonate-rock aquifer with low permeability bedrock are consistent with a boundary.
>
> 6. When hydrogeologic information indicate a close hydraulic connection (based on criteria 1-5), but limited, poor quality, or low resolution water level data obfuscate a determination of the extent of that connection, a boundary should be established such that it extends out to the nearest mapped feature that juxtaposes the carbonate-rock aquifer with low-permeability bedrock, or in the absence of that, to the basin boundary.

[55] SE ROA 48-49, Ex. 1.

After consideration of the above criteria, the State Engineer decided to finalize what was preliminarily determined in Interim Order 1303, and consolidated several administrative units into a single hydrographic basin, designated as the "Lower White River Flow System" or "LWRFS." The State Engineer also added the previously excluded Kane Springs Hydrographic Basin to the LWRFS,[56] and modified the portion of the Black Mountains area that is in the LWRFS. Although Order 1309 did not specifically address priorities or conflict of rights, as a result of the consolidation of the basins, the relative priority of all water rights within the seven affected basins will be reordered and the priorities will be considered in relation to all water rights holders in the consolidated basins, rather than in relation only to the other users within the original separate basins.

G. Petitioners and Their Respective Water Rights or Interests

a. Southern Nevada Water Authority and Las Vegas Valley Water District are government agencies serving Southern Nevada's water needs, and own water rights in Coyote Springs Valley, Hidden Valley, Garnet Valley, and a significant portion of the Muddy River decreed rights.

b. Coyote Spring Investments, LLC is a developer who owns water rights in Coyote Spring Valley, Kane Springs Valley, and California Wash;

c. Apex Holding Company, LLC and Dry Lake Water LLC own real estate and water rights to the area of land commonly referred to as the Apex Industrial Park, in Garnet Valley and Black Mountains Area;

d. The Center Biological Diversity is a national nonprofit conservation organization which does not hold any water rights, but has educational, scientific, biological, aesthetic and spiritual interests in the survival and recovery of the Moapa Dace;

e. Muddy Valley Irrigation Company is a private company that owns most of the decreed rights

[56] The Court notes that the Nevada State Engineer determined that Kane Springs should be included in this joint management area, even though the Kane Springs Basin had not been designated previously for management through the statutory process delineated in under NRS 534.030.

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

in the Muddy River;

f. Nevada Cogeneration Associates Numbers 1 and 2, who operate gas-fired facilities at the south end of the LWRFS and have water rights in the Black Mountain Area;

g. Georgia-Pacific Gypsum LLC, and Republic Technologies, Inc. are industrial companies that have water rights in the Garnet Valley Hydrographic Basin;

h. Lincoln County Water District and Vidler Water Co. are a public water district and a private company, respectively, and own water rights in Kane Springs Valley.

III.

DISCUSSION

STANDARD OF REVIEW

An aggrieved party may appeal a decision of the State Engineer pursuant to NRS 533.450(1). The proceedings, which are heard by the court, must be informal and summary, but must afford the parties a full opportunity to be heard. NRS 533.450(2). The decision of the State Engineer is considered to be prima facie correct, and the burden of proof is on the party challenging the decision. NRS 533.450(10).

A. Questions of Law

Questions of statutory construction are questions of law which require de novo review. The Nevada Supreme Court has repeatedly held courts have the authority to undertake an independent review of the State Engineer's statutory construction, without deference to the State Engineer's determination. *Andersen Family Assoc. v. Ricci*, 124 Nev. 182, 186, 179 P.3d 1201, 1203 (2008) (citing *Bacher v. State Engineer*, 122 Nev. 1110, 1115, 146 P.3d 793, 798 (2006) and *Kay v. Nunez*, 122 Nev. 1100, 1103, 146 P.3d 801, 804 (2006).

Any "presumption of correctness" of a decision of the State Engineer as provided by NRS 533.450(10), "does not extend to 'purely legal questions,' such as 'the construction of a statute,' as to which 'the reviewing court may undertake independent review.'" *In re State Engineer Ruling No. 5823*, 128 Nev. 232, 238-239, 277 P.3d 449, 453 (2012) (quoting *Town of Eureka v. State Engineer*, 108 Nev. 163, 165, 826 P.2d 948, 949 (1992)). At no time will the State

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

Engineer's interpretation of a statute control if an alternative reading is compelled by the plain language of the statute. *See Andersen Family Assoc.*, 124 Nev. at 186, 179 P.3d at 1203.

Although "[t]he State Engineer's ruling on questions of law is persuasive… [it is] not entitled to deference." *Sierra Pac. Indus. v. Wilson*, 135 Nev. Adv. Op. 13, 440 P.3e 37, 40 (2019). A reviewing court is free to decide legal questions without deference to an agency determination. *See Jones v. Rosner*, 102 Nev. 215, 216-217, 719 P.2d 805, 806 (1986); *accord Pyramid Lake Paiute Tribe v. Ricci*, 126 Nev. 521, 525, 245 P.3d 1145, 1148 (2010) ("[w]e review purely legal questions without deference to the State Engineer's ruling.").

B. Questions of Fact

The Court's review of the Order 1309 is "in the nature of an appeal" and limited to the record before the State Engineer. *Revert v. Ray*, 95 Nev. 782, 786, 603 P.2d 262, 264 (1979). On appeal, a reviewing court must "determine whether the evidence upon which the engineer based his decision supports the order." *State Engineer v. Morris*, 107 Nev. 699, 701, 819 P.2d 203, 205 (1991) (citing *State Engineer v. Curtis Park*, 101 Nev. 30, 32, 692 P.2d 495, 497 (1985)).

As to questions of fact, the State Engineer's decision must be supported by "substantial evidence in the record [.]" *Eureka Cty. v. State Engineer*, 131 Nev. 846, 850, 359 P.3d 1114, 1117 (2015) (quoting *Town of Eureka*, 108 Nev. at 165, 826 P.2d at 949). Substantial evidence is "that which a reasonable mind might accept as adequate to support a conclusion." *Bacher*, 122 Nev. at 1121, 146 P.3d at 800 (finding that a reasonable person would expect quantification of water rights needed and no evidence of such quantification or calculations by the State Engineer is included in the record). The Court may not substitute its judgment for that of the State Engineer, "pass upon the credibility of the witness nor reweigh the evidence." *Revert*, 95 Nev. at 786, 603 P.2d at 264.

Where a decision is arbitrary and capricious it is not supported by substantial evidence. *See Clark Cty. Educ. Ass'n v. Clark Cty. Sch. Dist.*, 122 Nev. 337, 339-40, 131 P.3d 5, 7 (2006) (concluding that an arbitrator's award was "supported by substantial evidence and therefore not arbitrary, capricious, or unsupported by the arbitration agreement").

In *Revert*, 95 Nev. at 787, 603 P.2d at 264–65, the Nevada Supreme Court noted:

> The applicable standard of review of the decisions of the State Engineer, limited to an inquiry as to substantial evidence, presupposes the fullness and fairness of the administrative proceedings: all interested parties must have had a 'full opportunity to be heard,' *See* NRS 533.450(2); the State Engineer must clearly resolve all the crucial issues presented, *See Nolan v. State Dep't. of Commerce*, 86 Nev. 428, 470 P.2d 124 (1970) (on rehearing); the decisionmaker must prepare findings in sufficient detail to permit judicial review, *Id.*; *Wright v. State Insurance Commissioner*, 449 P.2d 419 (Or.1969); *See also* NRS 233B.125. When these procedures, grounded in basic notions of fairness and due process, are not followed, and the resulting administrative decision is arbitrary, oppressive, or accompanied by a manifest abuse of discretion, this court will not hesitate to intervene. *State ex rel. Johns v. Gragson*, 89 Nev. 478, 515 P.2d 65 (1973).

Thus, in order to survive review, Order 1309 must be statutorily authorized, resolve all crucial issues presented, must include findings in detail to permit judicial review, and must be based on substantial evidence.

CONCLUSIONS OF LAW

A. The State Engineer Did Not Have the Authority to Jointly Administrate Multiple Basins by Creating the LWRFS "Superbasin," Nor Did He Have the Authority to Conjunctively Manage This Superbasin.

The powers of the State Engineer are limited to those set forth in the law. *See, e.g.,City of Henderson v. Kilgore*, 122 Nev. 331, 334, 131 P.3d 11, 13 (2006); *Clark Cty. School Dist. v. Clark Cty. Classroom Teachers Ass'n*, 115 Nev. 98, 102, 977 P.2d 1008, 1011 (1999) (*en banc*) (An administrative agency's powers "are limited to those powers specifically set forth by statute."); *Clark Cty. v. State, Equal Rights Comm'n*, 107 Nev. 489, 492, 813 P.2d 1006, 1007 (1991)); *Wilson v. Pahrump Fair Water, LLC*, 137 Nev. Adv. Op. 2, 481 P.3d 853, 856(2021) (The State Engineer's powers thereunder are limited to "only those . . . which the legislature expressly or implicitly delegates."); *Andrews v. Nevada State Bd. of Cosmetology*, 86 Nev. 207, 208, 467 P.2d 96, 97 (1970) ("Official powers of an administrative agency cannot be assumed by the agency, nor can they be created by the courts in the exercise of their judicial function. The grant of authority to an agency must be clear.") (*internal citation omitted*).

The Nevada Supreme Court has made clear that the State Engineer is a creature of statute and his or her actions must be within a statutory grant of authority. *Pahrump Fair Water LLC*, 481 P.3d

at 856 (explaining that "[t]he State Engineer's powers thereunder are limited to 'only those . . . which the legislature expressly or implicitly delegates'" (quoting *Clark Cty.*, 107 Nev. at 492, 813 P.2d at 1007)); *see also Howell v. Ricci*, 124 Nev. 1222, 1230, 197 P.3d 1044, 1050 (2008) (holding that the State engineer cannot act beyond his or her statutory authority).

The State Engineer's authority is outlined in NRS Chapters 532, 533 and 534. Chapter 533 deals generally with "water rights," which addresses surface water as well as groundwater, and chapter 534 is limited to groundwater, dealing specifically with "underground water and wells."

In the instant case, the State Engineer relied on the following specific statutes as authority for combining prior independently designated basins as a superbasin newly named the LWRFS, and then conjunctively managing[57] this superbasin:

- NRS 533.024(1)(c), which is a legislative declaration "encourag[ing] the State Engineer to consider the best available science in rendering decisions concerning the available surface and underground sources of water in Nevada."[58]
- NRS 534.024(1)(e), another legislative declaration that states the policy of Nevada is "[t]o manage conjunctively the appropriation, use and administration of all waters of this State, regardless of the source of the water." [59]
- NRS 534.020, which provides that all waters of the State belong to the public and are subject to all existing rights.[60]
- NRS 532.120, which allows the State Engineer to "make such reasonable rules and regulations as may be necessary for the proper and orderly execution of the powers conferred by law.[61]

[57] The Nevada Water Words Dictionary, defines "Conjunctive (Water) Use" in part, as "the integrated use and management of hydrologically connected groundwater and surface water." *Water Words Dictionary, Nevada Division of Water Planning* (2022) (available online athttp://water.nv.gov/WaterPlanDictionary.aspx) The same dictionary separately defines "Conjunctive Management" as, "the integrated management and use of two or more water resources, such as a (groundwater) aquifer and a surface body of water." *Id.*

[58] SE ROA 43.

[59] *Id*.

[60] *Id*.

[61] SE ROA 44.

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

- NRS 534.110(6), which allows the State Engineer to conduct investigations into any basin where average annual replenishment is not adequate for the needs of all water rights holders, and then subsequently restrict withdrawals to conform to priority rights.[62]

- NRS 534 and specifically NRS 534.120, which allows the State Engineer to make such rules, regulations and orders as are deemed essential for the welfare of an area where the groundwater basin is being depleted."[63]

However, as further discussed below, the State Engineer's reliance on these statutes for authority is misplaced, and his actions upend the bedrock principles of the prior appropriation doctrine.

1. *The Prior Appropriation Doctrine*

The doctrine of prior appropriation has been part of Nevada's common law since the 1800's, and is a fundamental principle of water law in Nevada. *See Lobdell v. Simpson*, 2 Nev. 274, 277-78 (1866). "An appropriative right 'may be described as a state administrative grant that allows the use of a specific quantity of water for a specific beneficial purpose if water is available in the source free from the claims of others with earlier appropriations.'" *Desert Irr., Ltd. v. State*, 113 Nev. 1049, 1051 n.1, 944 P.2d 835, 837 (1997) (quoting Frank J. Trelease & George A. Gould, *Water Law Cases and Materials 33* (4th ed. 1986)).

"Water rights are given 'subject to existing rights,' NRS 533.430(1), given dates of priority, NRS 533.265(2)(b), and determined based on relative rights, NRS 533.090(l)-(2)." *Mineral Cty. v. Lyon Cty.*, 136 Nev. 503,513, 473 P.3d 418, 426 (2020). Thus, "[i]n Nevada, the doctrine of prior appropriation determines the priority of both pre-1905 vested water rights and modern statutory water law." *Rand Properties, LLC v. Filippini*, 484 P.3d 275, Docket 78319 at 2 (Nev. 2021) (unpublished disposition). It is universally understood that the priority of a water right is its most valuable component. *See* Gregory J. Hobbs, Jr., *Priority: The Most Misunderstood Stick in the Bundle*, 32 Envtl. L. 37, 43 (2002) ("Priority determines the value of a water right").

"A priority in a water right is property in itself"; therefore, "to deprive a person of his

[62] *Id.*

[63] *Id.*

priority is to deprive him of a most valuable property right." *Colorado Water Conservation Bd. v. City of Cent.*, 125 P.3d 424, 434 (Colo. 2005) (internal quotation marks omitted). "A loss of priority that renders rights useless 'certainly affects the rights' value' and 'can amount to a de facto loss of rights.'" *Wilson v. Happy Creek, Inc.*, 135 Nev. 301, 313, 448 P.3d 1106, 1115 (2019) (quoting *Andersen Family Assocs.*, 124 Nev. at 190-1, 179 P.3d at 1201).

Nevada's statutory water law reflects the importance of priority. Not only did the Legislature choose not to bestow the State Engineer with discretion to alter priority rights, but it also affirmatively requires the State Engineer to preserve priority rights when performing the State Engineer's statutory duties. *See, e.g.*, NRS 534.110(6) (providing that any curtailment "be restricted to conform to priority rights"); NRS 534.110(7) (same); NRS 533.040(2) ("If at any time it is impracticable to use water beneficially or economically at the place to which it is appurtenant, the right may be severed from the place of use and be simultaneously transferred and become appurtenant to another place of use, in the manner provided in this chapter, without losing priority of right.").

The prior appropriation doctrine in Nevada, "the driest state in the Nation"[64] becomes particularly critical when, as in the instant case, there is not enough water to satisfy all of the existing rights of the current water right holders, and the threat of curtailment looms ominously in the near future. One of the greatest values of a senior priority right is the assurance that the holder will be able to use water even during a time of water shortage because junior water right holders will be curtailed first. Thus, senior right holders rely on their senior priority rights when developing businesses, entitling and permitting land development, negotiating agreements, making investments, obtaining permits and various approvals from State and local agencies, and generally making financial and other decisions based on the relative certainty of their right.

Priority in time of a right is only as valuable as where the holder stands in relation to others in the same situation, or more specifically in this case, in the same basin. As the statutes are written,

[64] *United States v. State Engineer*, 117 Nev. 585, 592, 27 P.3d 51, 55 (2001)(Becker, J., concurring in part and dissenting in part).

water right holders only compete in time for their "place in line" with other water right holders in their same basin. Therefore, the year that one acquires a priority right is only as important as the year that other water right holders in your basin acquired theirs. It is in this setting that State Engineer has issued Order 1309.

2. *Joint Administration*

The State Engineer's position is that the "best available science" demonstrates that the seven[65] named hydrographic basins are so hydrologically interconnected that science dictates they must be managed together in one superbasin. However, NRS 533.024(1)(c) is a policy declaration of the Legislature's intent that simply "encourages" the State Engineer "to consider the best available science in rendering decisions" that concern water he has authority to manage. NRS 533.024(1)(c).

Statements of policy from the Legislature do not serve as a basis for government action, but rather inform the interpretation of statutes that authorize specific action. *See, Pawlik v. Deng*, 134 Nev. 83, 85, 412 P.3d 68, 71 (2018). In *Pawlik*, the Nevada Supreme Court expressed the relevance of statements of policy in terms as follows: "if the statutory language is subject to two or more reasonable interpretations, the statute is ambiguous, and we then look beyond the statute to the legislative history and interpret the statute in a reasonable manner 'in light of the policy and the spirit of the law.'" *Id*. (quoting *J.E. Dunn Nw., Inc. v. Corus Constr. Venture, LLC*, 127 Nev. 72, 79, 249 P.3d 501, 505 (2011)).

While such statements of policy are accorded deference in terms of statutory interpretation, the Nevada Supreme Court has specifically held that they are not binding. *See McLaughlin v. Hous. Auth. of the City of Las Vegas*, 227 P.2d 206, 93 (1951) ("It has often been said that the declaration of policy by the legislature, though not necessarily binding or conclusive upon the courts, is entitled to great weight, and that it is neither the duty nor prerogative of the courts to interfere in such legislative finding unless it clearly appears to be erroneous and without reasonable foundation."); *see*

[65] More accurately, the LWRFS is comprised of six hydrographic basins and a portion of a seventh.

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

also Clean Water Coal. v. M Resort, LLC, 127 Nev. 301, 313, 255 P.3d 247, 255 (2011) ("The State acknowledges that when legislative findings are expressly included within a statute, those findings should be accorded great weight in interpreting the statute, but it points out that such findings are not binding and this court may, nevertheless, properly conclude that section 18 is a general law despite the Legislature's declaration to the contrary.").

Statements of policy set forth by the Legislature are therefore not operative statutory enactments, but rather tools to be used in interpreting operative statutes—and only then where such statutes are ambiguous on their face. *See Pawlik*, 134 Nev. at 85, 412 P.3d at 71; *see also Cromer v. Wilson*, 126 Nev. 106, 109-10, 225 P.3d 788, 790 (2010) (if the plain language of a statute "is susceptible of another reasonable interpretation, we must not give the statute a meaning that will nullify its operation, and we look to policy and reason for guidance").

This statement of policy is not, in and of itself, a grant of authority that allows the State Engineer to change boundaries of established hydrographic basins as science dictates. This Court certainly acknowledges that since the time the 256 hydrographic basins and sub-basins were delineated, that science and technology have made great strides. While certain navigable waters and topography were more easily identifiable at the time the basins were established, the complexity lies in the less obvious interconnectivity and formations of sub-surface structures that were more difficult to detect at that time. There is no doubt that scientific advancements allow experts to more accurately assess sub-surface formations and groundwater than they have in the past, and certainly technology will continue to improve accuracy in the future. However, this Court notes that the Legislature specifically used the word "encourages" to describe how the Nevada State Engineer should utilize the best available science. NRS 533.024(1)(c). The statute does not declare that the best available science should dictate the decisions.

Indeed, if science was the sole governing principle to dictate the Nevada State Engineer's decisions, there would be a slippery slope in the changes that could be made in the boundaries of the basins and how they are managed; each time scientific advancements and discoveries were made regarding how sub-surface water structures are situated or interconnected, under this theory of

authority, the Nevada State Engineer could change the boundaries of the existing basins. Each boundary change would upend the priority of water right holders as they relate to the other water right holders in the new, scientifically-dictated "basin." This would lead to an absurd result as it relates to the prior appropriation doctrine. Every water right holder would be insecure in their priority, as their relative priority could change at any moment that science advances in determining further interconnectivity of water below the surface. In the administration of water rights, the certainty of those rights is particularly important and prior appropriation is "largely a product of the compelling need for certainty in the holding and use of water rights." *Mineral Cty. v. Lyon Cty.*, 136 Nev. at 518, 473 P.3d at 429 (quoting *Arizona v. California*, 460 U.S. 605, 620 (1983)). Science in and of itself cannot alter common law and statutes. Thus, the State Engineer's reliance on NRS 533.024(1)(c) for giving him authority to create a superbasin out of seven existing basins is misplaced.

While NRS 532.120 allows the State Engineer to make reasonable rules and regulations as may be necessary for proper and orderly execution, this authority is not without its limits, and is only authorized for those "powers conferred by law." Nothing in Chapters 532, 533 or 534 gives the State Engineer direct authority to eliminate, modify, or redraw the boundaries of existing hydrographic basins, or to consolidate multiple, already established, hydrographic basins into a single hydrographic superbasin. For at least 50 years, holders of groundwater rights in Nevada have understood a "hydrographic basin" to be an immutable administrative unit. This has been the case regardless of whether the boundaries of the unit accurately reflected the boundaries of a particular water resource. The Nevada Legislature has adopted a comprehensive scheme that provides the framework for the State Engineer to administer surface water and groundwater. Moreover, the State Engineer has, for decades, administered water on the basis of hydrographic basins identified, described, and released to the public and relied upon by the Legislature, former State Engineers, and the public. Applications to appropriate water are and have been on the basis of each hydrographic basin. Protests, agreements, and resolutions of water applications have been on the basis of each basin. Furthermore, statutes require that the State Engineer consider available water and

appropriations based on the basins already defined.

It is interesting to note that in the statutes that *do* confer authority on the Nevada State Engineer to manage water, they specifically mention the management as being done on a basin-by-basin (or a sub-basin within a basin) basis. NRS 534.030 is the original source of authority for the State Engineer's designation of an "administrative area" by "basin." NRS 534.030. Through NRS 534.030 and NRS 534.011, the State Engineer has authority to designate "any groundwater basin, or portion therein" an "area of active management," which refers to an area "[i]n which the State Engineer is conducting particularly close monitoring and regulation of the water supply because of heavy use of that supply." Under the statute's plain meaning, a *basin* is intended to be an *administrative unit*, defined by boundaries described by "legal subdivision as nearly as possible." NRS 534.030(1)(b). In other words, a hydrographic basin so designated was synonymous with an administrative unit—a *legal* construct, defined thereafter by a *geographic* boundary. Water rights within these basins are to be administered according to the laws set forth in NRS Chapters 533 and 534, and the principles of prior appropriation are applied to water uses *within* each basin.

Moreover, the Legislature consistently refers to a singular basin throughout the statute. *See, e.g.,* 534.030(1) (describing a petition under NRS Chapter 534 as one that requests the State Engineer "to administer the provisions of this chapter as relating to designated areas, … in any particular basin or portion therein"); NRS 534.030(2) ("a groundwater basin"); NRS 534.030(2) ("the basin"). In fact, in the State Engineer's prior rulings and orders, including Order 1169, Order 1169A, and Rulings 5712 and 6455, the State Engineer employs a basin-by-basin management approach.

NRS 534.110(6) sets forth the State Engineer's ability to make basin-specific determinations and provides the authority to curtail water rights where investigations into specific basins demonstrate that there is insufficient groundwater to meet the needs of all permittees and all vested-right claimants. NRS 534.110 plainly applies to investigations concerning administration and designation of critical management areas within a basin. If the State Engineer conducts an investigation as set forth in NRS 534.110(6) and determines that the annual replenishment to the

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

groundwater supply is not adequate for the permittees and vested-right claimants, he has the authority to either (1) order that withdrawals from domestic wells be restricted to conform to priority rights, or (2) designate as a critical management area the basin in which withdrawals of groundwater consistently exceed the perennial yield. NRS 534.110(6)-(7). It is important to note, however, that the statute does not provide authority to change the boundaries of established basins, combine multiple basins into one unit or superbasin, and then modify or curtail groundwater rights based upon restructured priority dates in this newly created superbasin.

The Court acknowledges that the State Engineer can and should take into account how water use in one basin may affect the water use in an adjoining or closely related basin when determining how best to "actively manage" a basin. However, this is much different than how the State Engineer defines "joint management": erasing the borders of seven already established legal administrative units and creating one legal superunit in the LWRFS superbasin. If the Legislature intended for the State Engineer to designate areas across multiple basins for "joint administration," it would have so stated. *See Slade v. Caesars Entm't Corp.*, 132 Nev. 374, 380-81, 373 P.3d 74, 78 (2016) (citing Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts*, 107 (2012) ("The expression of one thing implies the exclusion of others.")). Thus, under NRS 534.030, while the State Engineer can administer basins individually, the statute does not allow the State Engineer to combine basins for joint administration, nor do NRS 532.120, NRS 533.024, or NRS 534.110(6) confer express authority on the State Engineer to do so.

3. *Conjunctive Management*

The Nevada State Engineer relies on NRS 534.024(1)(e), as the source of authority that allows him to manage both surface and groundwater together through "conjunctive management."[66] Historically, surface water and ground water have been managed separately. In fact, the term "conjunctive management" was only introduced in the statutes in the 2017 session of the Nevada Legislature when it added subsection 1(e) to NRS 533.024. However, as discussed previously, this

[66] SE ROA 43.

statute is a declaration of legislative intent, and as a statement of policy, it does not constitute a grant of authority to the State Engineer, nor is it a water management tool in and of itself.

In fact, there is no authority or guidance whatsoever in the statutes as to how to go about conjunctively managing water and water rights. While the Court agrees that it makes sense to take into account how certain groundwater rights may affect other surface water rights when managing water overall, as this Court noted previously, the powers of the State Engineer are limited to those set forth in the law. While Nevada law provides certain tools for the management of water rights in, for example, over appropriated basins, *e.g.*, NRS 534.110(7) (authorizing the State Engineer to "designate as a critical management area any basin in which withdrawals of groundwater consistently exceed the perennial yield of the basin"), nothing in Chapters 532, 533 or 534 gives the State Engineer express authority to conjunctively manage, in this proceeding, both the surface and groundwater flows he believes are occurring in the LWRFS superbasin.

This Court finds that as a result of the consolidation of the basins, the relative priority of all water rights within the seven affected basins will be reordered and the priorities will be considered in relation to all water rights holders in the consolidated basins, rather than in relation only to the other users within the original separate basins.[67] By redefining and combining seven established basins for "joint administration," and "conjunctive management," the State Engineer essentially strips senior right holders of their priority rights by deciding that all water rights within the LWRFS superbasin should be administered based upon their respective dates of priority in relation to other rights "within the regional groundwater unit."

The State Engineer's position is that the determination of conflicts and priorities has not yet occurred since that is to occur in the second step of the proceeding. However, by the very nature of erasing the existing basins and putting all of the water rights holders in one superbasin, he has

[67] This Court rejects the State Engineer's argument that Order 1309 did not change priorities merely because it did not change priority dates. His argument conflates the meaning of *priority* as defined by the date of a water right application, and the common meaning of *priority*, as defined by one's "place in line." While it is true that the Order does not change priority dates, this Court finds that it *does* change the relative priorities, as petitioners who previously held the most senior rights within their singular basin may now be relegated to more junior status within the "superbasin."

already reprioritized certain rights as they relate to one another, even if their priority dates remain the same.[68] As a result of creating this superbasin, water rights holders with some of the most senior priority rights within their basin are now relegated to a much a lower priority position than some water right holders in basins outside of their own. Such a loss of priority would potentially render certain water rights valueless, given the State Engineer's restrictions on pumping in the entire LWRFS. The Court concludes that the State Engineer does not have authority to redefine Nevada basins so as to reorder the priority rights of water right holders through conjunctive management within those basins. Accordingly, Order 1309 stands at odds with the prior appropriation doctrine.

The Court determines that the question of whether the State Engineer has *authority* to change the boundaries of basins that have been established for decades, or subject that newly created basin to conjunctive management, or not, is a legal question, not a factual one. The State Engineer has failed to identify a statute that authorizes him to alter established basin boundaries or engage in conjunctive management. Based upon the plain language of the applicable statutes, the Court concludes that the State Engineer acted outside the scope of his authority in entering Order 1309.

B. The State Engineer Violated Petitioners' Due Process Rights in Failing to Provide Notice to Petitioners or an Opportunity to Comment on the Administrative Policies Inherent in the Basin Consolidation.

The Nevada Constitution protects against the deprivation of property without due process of law. Nev. Const. art. 1, § 8(5). "Procedural due process requires that parties receive notice and an opportunity to be heard." *Eureka Cty. V. Seventh Jud. Dist. Ct.*, 134 Nev. 275, 279, 417 P.3d 1121, 1124 (2018)(internal quotation marks omitted). "In Nevada, water rights are 'regarded and protected as real property.'" *Id.*(quoting *Application of Filippini*, 66 Nev. 17, 21-22, 202 P.2d 535,

[68] Although this Court refrains from analyzing whether or not 1309 is supported by substantial evidence, the Court notes that part of the State Engineer's 1309 decision of limiting use to 8,000afa or less is based on the concern of adversely impacting the endangered Moapa Dace, located in the Muddy River Springs. This decision does not appear to take into account more nuanced effects of how pumping in each separate basin affects the Muddy River flows, no matter how far away the basin is from the river. In other words, reprioritization of each water rights holder in relation to the other (by prioritization date in the newly created superbasin) means that their standing (and more importantly, their potential for curtailment) is only by date. Water use in one basin may not have the same effect as another in reducing Muddy River flows; however, these distinguishing factors are all erased by combining all of the basins together for joint administration.

537 (1949)). Therefore, holders of water rights in Nevada are entitled to constitutional protections regarding those property rights, including procedural due process. *See id.*

The Nevada Supreme Court has held that "[a]lthough proceedings before administrative agencies may be subject to more relaxed procedural and evidentiary rules, due process guarantees of fundamental fairness still apply." *Dutchess Bus. Serv.'s, Inc. v. Nev. State Bd. of Pharmacy*, 124 Nev. 701, 711, 191 P.3d 1159, 1166 (2008). In *Dutchess*, the Nevada Supreme Court noted further that "[a]dministrative bodies must follow their established procedural guidelines and give notice to the defending party of 'the issues on which decision will turn and . . . the factual material on which the agency relies for decision so that he may rebut it." *Id*.

With respect to notice and hearing, the Nevada Supreme Court has held that "[i]nherent in any notice and hearing requirement are the propositions that the notice will accurately reflect the subject matter to be addressed and that the hearing will allow full consideration of it." *Public Serv. Comm'n of Nev. v. Southwest Gas Corp.*, 99 Nev. 268, 271, 772 P.2d 624, 626 (1983). "Notice must be given at an appropriate stage in the proceedings to give parties meaningful input in the adjudication of their rights." *Seventh Jud. Dist. Ct.,* 134 Nev. at 280-81, 417 P.3d at 1125-26 (citing *Hamdi v. Rumsfeld*, 542 U.S. 507, 533, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004) ("It is equally fundamental that the right to notice and an opportunity to be heard must be granted at a meaningful time and in a meaningful manner."). A party's due process rights attach at the point at which a proceeding holds the *possibility* of curtailing water rights, and due process necessitates notice of that possibility to the party potentially affected.[69]

For the reasons that follow, this Court concludes that (a) the notice and hearing procedure employed by the State Engineer failed to satisfy the requirements of due process because the notice failed to put the parties on notice that the State Engineer would decide on a management protocol for

[69] "[B]ecause the language in the show cause order indicates that the district court may enter an order forcing curtailment to begin, junior water rights holders must be given an opportunity to make their case for or against the option of curtailment. Notice must be given at an appropriate stage in the proceedings to give parties meaningful input in the adjudication of their rights…Thus, junior water rights holders must be notified before the curtailment decision is made, even if the specific "how" and "who" of curtailment is decided in a future proceeding." *Seventh Jud. Dist. Ct.,* 134 Nev. 275, 280–81, 417 P.3d 1121, 1125 (2018).

the LWRFS at the conclusion of the proceeding; (b) the hearing itself failed to satisfy due process because the parties were not afforded a full and complete opportunity to address the implications of the State Engineer's decision to subject the LWRFS to conjunctive management and joint administration, and (c) the State Engineer's nondisclosure, before or during the Order 1303 proceedings of the six criteria he would use in evaluating the connectivity of the basins and determining the new consolidated basin boundary, failed to satisfy the requirements of due process.

Specifically, the notice of hearing and amended notice of hearing ("Notice") noticed an opportunity for the parties that submitted Order 1303 reports to explain their positions and conclusions with respect to the questions posed for consideration in Order 1303.[70] [71] But the questions posed in Order 1303 did not relate to management of the LWRFS, such as issues of conjunctive or joint administration, but rather related to factual inquiries. Instead, Order 1303 specifically authorized stakeholders to file reports addressing four specific areas, none of which related to the management of the LWRFS.[72]

In noticing the hearing to consider the reports submitted pursuant to Order 1303, there was no mention of consideration of the prospective management of the LWRFS, *i.e.*, whether it would be appropriately managed conjunctively and as a joint administrative unit. Indeed, this was consistent with the Hearing Officer's opening remarks at the August 8, 2019, prehearing conference in which

---

[70] *See* SE ROA 262-82, Ex. 2; SE ROA 284-301, Ex. 3

[71] The Notice included the following summary:

> On August 9, 2019, the State Engineer held a pre-hearing conference regarding the hearing on the submission of reports and evidence as solicited in Order 1303…. The State Engineer established that the purpose of the hearing on the Order 1303 reports was to provide the participants an opportunity to explain the positions and conclusions expressed in the reports and/or rebuttal reports submitted in response to the Order 1303 solicitation. The State Engineer directed the participants to limit the offer of evidence and testimony to the salient conclusions, including directing the State Engineer and his staff to the relevant data, evidence and other information supporting those conclusions. ***The State Engineer further noted that the hearing on the Order 1303 reports was the first step in determining to what extent, if any, and in what manner the State Engineer would address future management decisions, including policy decisions, relating to the Lower White River Flow System basins. On that basis, the State Engineer then addressed other related matters pertaining to the hearing on the Order 1303 reports, including addressing the date and sequence of the hearing, as set forth in this Notice of Hearing.*** SE ROA 285, Ex. 3 (emphasis added).

[72] SE ROA 647-48. Ex. 6.

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

the State Engineer actively discouraged participants from providing input regarding that very question. The hearing officer stated as follows at the August 8 prehearing conference:

> And so, and I'm going to talk about this and we've spoken about this before, is that really this is a threshold reporting aspect, that this is part of a multi-tiered process in terms of determining the appropriate management strategy to the Lower River Flow System.
>
> This larger substantive policy determination is not part of the particular proceeding. That's part of later proceedings….

SE ROA 522, Ex. 5 (Hr'g Tr. at 10:6-20).

The hearing officer gave additional consistent guidance at the outset of the September 23 hearing, further directing the parties not to address policy issues even in relation to the fact that Order 1303 authorized stakeholders to include in their reports "[a]ny other matter believed to be relevant to the State Engineer's analysis."[73] Specifically, the Hearing Officer directed as follows:

> And while that fifth issue is [as set forth in Ordering Paragraph 1(e) of Order 1303] not intended to expand the scope of this hearing into making policy determinations with respect to management of the Lower White River Flow System basin's individual water rights, those different types of things**,** because those are going to be decisions that would have to be made in subsequent proceedings should they be necessary.

SE ROA 52962, Ex. 26 (Hr'g Tr. 6:4-15).

Not only did the notice not adequately notify the parties of the possibility of the consideration and resolution of policy issues, but the Hearing Officer consistently directed the parties to avoid the subject, compounding the due process violation.

Notwithstanding the Hearing Officer's admonitions and the plain language of the notice, the State Engineer ultimately issued a dramatic determination regarding management of the LWRFS. In doing so, the State Engineer precluded the participants from providing input that would have allowed for the full consideration of the issue. Specifically, participants and experts did not have the opportunity to, and were actively discouraged from addressing policy issues critical to the

[73] SE ROA 648, Ex. 6.

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

management of the LWRFS.[74] The refusal to consider these issues ensured that the State Engineer's decision was not based on a fully developed record.

The State Engineer acknowledged as much in Order 1309 itself. There, the State Engineer noted the fact that Georgia-Pacific and Republic raised concerns over the sufficiency of the scope of the proceedings at hearing but inexplicably asserted that a to-be-determined management scheme would be developed to address "management issues" in the LWRFS:

> Georgia-Pacific and Republic asserted that boundaries are premature without additional data and without a legally defensible policy and management tools in place. They expressed concern that creating an administrative unit at this time inherently directs policy without providing for due process. The State Engineer has considered these concerns and agrees that additional data and improved understanding of the hydrologic system is critical to the process. He also believes that the data currently available provide enough information to delineate LWRFS boundaries, and that an effective management scheme will provide for the flexibility to adjust boundaries based on additional information, retain the ability to address unique management issues on a sub-basin scale, and maintain partnership with water users who may be affected by management actions throughout the LWRFS.
>
> SE ROA 54, Ex. 1.

This language reflects a serious misunderstanding of the effect of Order 1309. Insofar as Order 1309 subjects the LWRFS to conjunctive management and joint administration, resulting in effectively reordering of priority of water rights in the LWRFS superbasin, the order effectuates a management scheme with far reaching consequences. Thus, agreeing on the one hand that an "effective management scheme" will be necessary to address challenges in the LWRFS, but

[74] These issues include, but are not limited to: whether Nevada law allows the State Engineer to conjunctively manage multiple hydrographic basins in a manner that modifies the relative priority of water rights due to the administration consolidation of basins; whether the State Engineer would establish a "critical management area" pursuant to NRS 534.110 and, if so, whether he would develop a groundwater management plan or defer to the stakeholders to develop one; whether Nevada law gives the State Engineer authority to designate a management area that encompasses more than one basin; whether "safe-yield" discrete management areas should be established within the proposed administrative unit; whether water rights holders enjoy a "property right" in the relative priority of their water rights such that impairing that right may constitute a "taking"; whether unused (or only sporadically used) senior water rights take precedence over certificated or fully used junior rights, particularly where these junior rights are in continuous use to support economically significant enterprises; whether States compel quantification of federal reserved rights by a date certain; and whether the State Engineer should approach the legislature to seek different or additional management tools or authority. *See* SE ROA 52801-8, Ex. 25 (Georgia Pacific and Republic Closing Argument, outlining policy questions for consideration by the State Engineer at later proceedings, proceedings that never took place).

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

contending it will be developed in the future, reveals a lack of appreciation of the implications of the order to the detriment of not only the participants but all water rights holders in the LWRFS basins. Without consideration of the implications of the management decision contained in the order, it cannot be based on a full consideration of the issues presented. In affirmatively limiting the scope of the proceeding to include a full consideration of the issues, the State Engineer violated the stakeholders' due process rights. Both the notice and the hearing procedures employed failed to comport with due process.

Finally, as noted above, the State Engineer did not give notice or disclose before or during the Order 1303 proceedings, the six specific criteria that he would use in evaluating the connectivity of the basins and determining the new consolidated basin boundary. Although the State Engineer asserted that he considered the evidence and testimony presented in the public hearing "on the basis of a common set of criteria that are consistent with the original characteristics conserved critical in demonstrating a close hydrologic connection requiring joint management in Rulings 6254-6261,"[75] a review of these rulings reveals that none of the six criteria or characteristics were previously identified, examined in the hydrological studies and subsequent hearing that followed the completion of the Order 1169 aquifer test, or expressly disclosed in Rulings 6254-6261.[76] These criteria were instead explicitly disclosed for the first time in Order 1309, which means the participants had no opportunity to directly address these criteria in their presentations, or critically, to address the appropriateness of these criteria.

This Court is unpersuaded by the State Engineer's argument that it could develop the criteria only after it heard all the evidence at the hearing. Even if it did, this does not justify a deprivation of the right to due process. In order to provide the parties due process and a meaningful opportunity to present evidence on these issues, the State Engineer should have included these factors in the Notice of Pre-Hearing Conference. *See Eureka Cty.*, 131 Nev. at 855, 359 P.3d at 1120; *Revert,* 95 Nev. at 787, 603 P.2d at 265 (criticizing the state engineer for engaging in post hoc rationalization). This

[75] *See* SE ROA 48.

[76] SE ROA 726-948.

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

due process violation is particularly harmful to water rights holders in Kane Springs, the sole basin that had not been previously designated for management under NRS 534.030, had not been included in the Order 1169 aquifer test, and had not been identified as a basin to be included in the LWRFS superbasin in Order 1303.

Accordingly, this Court concludes that revealing the criteria only after stakeholders had engaged in the extensive investigations, expert reporting, and the intense factual hearing requested by Order 1303 further violates the participants' due process rights.

As this Court has determined that the Nevada State Engineer exceeded his statutory authority and violated the participants' due process rights in issuing Order 1309, it declines to reach further analysis on whether his factual findings in Order 1309 were supported by substantial evidence.

IV.

CONCLUSION

The Court FINDS that the Nevada State Engineer exceeded his statutory authority and had no authority based in statute to create the LWRFS superbasin out of multiple distinct, already established hydrographic basins. The Nevada State Engineer also lacked the statutory authority to conjunctively manage this LWRFS superbasin.

The Court ALSO FINDS that the Nevada State Engineer violated the Petitioners' Constitutional right to due process by failing to provide adequate notice and a meaningful opportunity to be heard.

As a result, Order 1309 is arbitrary, capricious, and therefore void.

Good cause appearing, based upon the above Findings of Fact and Conclusions of Law, the Court ORDERS, ADJUDGES AND DECREES as follows:

IT IS HEREBY ORDERED that the petition for review of the Nevada State Engineer's Order No. 1309 filed by Petitioners Lincoln County Water District and Vidler Water Company, Inc. is GRANTED.

IT IS FURTHER ORDERED that the petition for review of the Nevada State Engineer's Order No. 1309 filed by Petitioners Coyote Springs Investment, LLC is GRANTED.

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

IT IS FURTHER ORDERED that the petition for review of the Nevada State Engineer's Order No. 1309 filed by Petitioners Apex Holding Company, LLC and Dry Lake Water, LLC is GRANTED.

IT IS FURTHER ORDERED that the petition for review of the Nevada State Engineer's Order No. 1309 filed by Petitioners Nevada Cogeneration Associates Nos. 1 and 2 is GRANTED.

IT IS FURTHER ORDERED that the petition for review of the Nevada State Engineer's Order No. 1309 filed by Petitioners Georgia-Pacific Gypsum LLC, and Republic Environmental Technologies, Inc. is GRANTED.

IT IS FURTHER ORDERED that the State Engineer's Order 1309 is VACATED in its entirety.

IT IS SO ORDERED.

Dated this 19th day of April, 2022

Bita Yeager

66B 24A E875 2549
Bita Yeager
District Court Judge

Bita Yeager
Eighth Judicial District Court
Clark County, Nevada
Department 1

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

Southern Nevada Water Authority, Plaintiff(s) vs. Nevada State Engineer, Division of Water Resources, Defendant(s)	CASE NO: A-20-816761-C DEPT. NO. Department 1

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 4/19/2022

Sev Carlson	scarlson@kcnvlaw.com
Dorene Wright	dwright@ag.nv.gov
James Bolotin	jbolotin@ag.nv.gov
Mary Pizzariello	mpizzariello@ag.nv.gov
Mike Knox	mknox@nvenergy.com
Christian Balducci	cbalducci@maclaw.com
Laena St-Jules	lstjules@ag.nv.gov
Kiel Ireland	kireland@ag.nv.gov
Justina Caviglia	jcaviglia@nvenergy.com

Bradley Herrema	bherrema@bhfs.com
Kent Robison	krobison@rssblaw.com
Therese Shanks	tshanks@rssblaw.com
William Coulthard	wlc@coulthardlaw.com
Emilia Cargill	emilia.cargill@coyotesprings.com
Therese Ure	counsel@water-law.com
Sharon Stice	sstice@kcnvlaw.com
Gregory Morrison	gmorrison@parsonsbehle.com
Paul Taggart	paul@legaltnt.com
Derek Muaina	DerekM@WesternElite.com
Andy Moore	moorea@cityofnorthvegas.com
Steven Anderson	Sc.anderson@lvvwd.com
Steven Anderson	Sc.anderson@lvvwd.com
Lisa Belenky	lbelenky@biologicaldiversity.org
Douglas Wolf	dwolf@biologicaldiversity.org
Sylvia Harrison	sharrison@mcdonaldcarano.com
Sylvia Harrison	sharrison@mcdonaldcarano.com
Lucas Foletta	lfoletta@mcdonaldcarano.com
Lucas Foletta	lfoletta@mcdonaldcarano.com
Sarah Ferguson	sferguson@mcdonaldcarano.com
Sarah Ferguson	sferguson@mcdonaldcarano.com
Alex Flangas	aflangas@kcnvlaw.com
Kent Robison	krobison@rssblaw.com

Bradley Herrema	bherrema@bhfs.com
Emilia Cargill	emilia.cargill@wingfieldnevadagroup.com
William Coulthard	wlc@coulthardlaw.com
Christian Balducci	cbalducci@maclaw.com
Christian Balducci	cbalducci@maclaw.com
Andrew Moore	moorea@cityofnorthlasvegas.com
Robert Dotson	rdotson@dotsonlaw.legal
Justin Vance	jvance@dotsonlaw.legal
Steve King	kingmont@charter.net
Karen Peterson	kpeterson@allisonmackenzie.com
Wayne Klomp	wayne@greatbasinlawyer.com
Dylan Frehner	dfrehner@lincolncountynv.gov
Scott Lake	slake@biologicaldiversity.org
Hannah Winston	hwinston@rssblaw.com
Nancy Hoy	nhoy@mcdonaldcarano.com
Carole Davis	cdavis@mcdonaldcarano.com
Thomas Duensing	tom@legaltnt.com
Thomas Duensing	tom@legaltnt.com
Jane Susskind	jsusskind@mcdonaldcarano.com
Jane Susskind	jsusskind@mcdonaldcarano.com
Kellie Piet	kpiet@maclaw.com
Francis Flaherty	fflaherty@dyerlawrence.com
Courtney Droessler	cdroessler@kcnvlaw.com